

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

RAYMOND HINOJOSA

VS.

MORAN TOWING CORPORATION AND
MORAN TOWING OF TEXAS, INC.

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CIVIL ACTION NO. _____

DEFENDANTS' NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

I.

MORAN TOWING CORPORATION and MORAN TOWING OF TEXAS, INC. are named Defendants in this civil action brought in the 58th Judicial District Court of Jefferson County, Texas, and entitled *Raymond Hinojosa v. Moran Towing Corporation, et al*, Cause No. A-205512. A copy of the Plaintiff's Original Petition in that action is attached hereto as Exhibit "A."

II.

The Plaintiff's Original Petition for this cause of action was first filed on March 18, 2020. Defendants were first served with process in this matter on or about May 4, 2020. This Notice of Removal is filed with this Court within thirty days after service of Plaintiff's Petition on the removing parties and in compliance with 28 U.S.C. §1441. All named Defendants consent to the removal.

III.

The Plaintiff's Original Petition seeks recovery alleging negligence against Defendant(s) and jurisdiction of this Court exists because of diversity of citizenship under 28 U.S.C. §1332. The nature of this action is more fully stated in Plaintiff's Petition, a copy of which is filed herewith and attached hereto as Exhibit "A." Defendants do not admit the allegations contained therein, but attach same for informational purposes only.

IV.

This Court has original jurisdiction over the causes of action alleged by Plaintiff pursuant to 28 U.S.C. §1332 due to diversity of citizenship of the true parties to this litigation, namely the Plaintiff as a resident of the state of Texas and Defendant Moran Towing Corporation, which is incorporated in the state of New York and has its principal place of business in the state of Connecticut. The amount in controversy pled by the plaintiff exceeds the necessary minimum of \$75,000.00. Defendant(s) would show named Defendant Moran Towing of Texas, Inc. is improperly joined as a party defendant in this matter due to the fact a Certificate of Termination was executed on March 22, 2019 and is marked filed with the Texas Secretary of State on May 29, 2019, (see, attached Exhibit “B,” Certificate of Termination) well before the accident made the basis of this litigation is alleged to have occurred, and therefore under the law they cannot be held responsible in any respect for this accident. *Ray v. Ronnie Moore Trucking, et al* 2012 WL 13032960 (W.D. Tex. 2012). Plaintiff was not an employee of Moran towing of Texas, Inc. and it could not have breached any duty to plaintiff if it no longer existed as a corporate entity. Consequently, Plaintiff has no viable claim against Defendant Moran Towing of Texas, Inc. and it should be dismissed from this litigation, and Moran Towing of Texas, Inc. should not serve as the basis for preventing diversity jurisdiction to apply in this case. Therefore, pursuant to the provisions of 28 U.S.C. §1441 et. seq., this cause of action may be removed to the United States District Court for the Eastern District of Texas, Beaumont Division.

V.

Defendant files herewith copies of all process, pleadings, and orders received by counsel for Defendants (see Exhibit “C”). All party Defendants consent to the removal of this case.

VI.

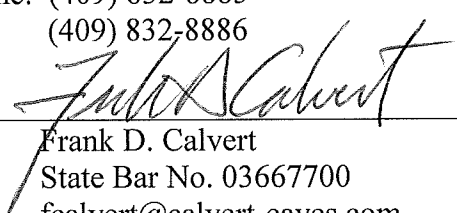
Promptly after filing of this Notice of Removal, written notice thereof will be given to all parties, and a copy of this Notice will be filed with the 58th Judicial District Court, Jefferson County, Texas to affect the removal of such civil action to this Honorable Court as provided by law.

WHEREFORE, PREMISES CONSIDERED, Defendant, **MORAN TOWING CORPORATION and, to the extent it can act, MORAN TOWING OF TEXAS, INC.**, pray that this Notice of Removal be accepted as good and sufficient, that the aforesaid Plaintiff's Original Petition be removed from State Court to this Honorable Court for determination as provided by law, and that this Court enter such orders and issue such process as may be proper to bring before it copies of all records and pleadings in such civil action from State Court, and thereupon proceed with this civil action as if it had been originally commenced in this Court.

Respectfully submitted,

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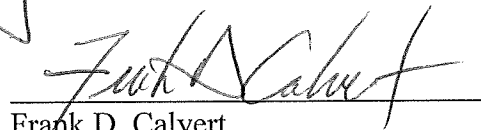
**ATTORNEY FOR DEFENDANTS,
MORAN TOWING CORPORATION AND
MORAN TOWING OF TEXAS, INC.**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was furnished to all counsel of record by:

 X E-Service

on this 28th day of May , 2020.



Frank D. Calvert